of stockholders, appointed a receiver over the corporation on the ground that the directors and officers were guilty of fraud and mismanagement. This receiver now prays that the federal court's adjudication and appointment of a receiver be set aside. *Held*, that the federal proceedings be annulled. *Matter of Associated Oil Co., Bankrupt*, 46 Am. B. R. 482 (E. D. La.).

For a discussion of the principles involved, see NOTES, *supra*, p. 195.

BILLS AND NOTES — PURCHASERS FOR VALUE WITHOUT NOTICE — RECOVERY OF STIPULATED ATTORNEYS' FEES BY PLEDGEE WHERE MAKER HAS DEFENSE AGAINST PAYEE. — A note made by the defendant, containing a stipulation for the payment of ten per cent as attorneys' fees, in case it should be placed in the hands of an attorney for collection, was transferred by the payee to the plaintiff as collateral security for credit then advanced. A defense of fraud by the payee was proved. The amount of the note was greater than the debt it was pledged to secure. *Held*, that the plaintiff be allowed to recover the amount of his claim against the payee, plus ten per cent thereof as attorneys' fees. *Butler Bros.* v. *Dunsworth*, 233 S. W. 311 (Tex. Civ. App.).

It is well settled that the *bona fide* pledgee of a note to which the maker has a defense, may recover only the amount of the debt secured. *Stoddard* v. *Kimball*, 6 Cush. (Mass.) 469; *Elk Valley Coal Co.* v. *Third Nat. Bank*, 157 Ky. 617, 163 S. W. 766. See NEGOTIABLE INSTRUMENTS LAW, § 27. It would seem that the logic of the rule stated is this: the pledgee is a holder in due course, but if he recovered the full amount of the note he would have to hold everything above the amount of the debt secured, in trust for the pledgor; the maker could recover that amount from the wrongful pledgor; hence to avoid circuity of action he is given a direct defense against the pledgee. See *Stoddard* v. *Kimball*, *supra*, at 471, 11 HARV. L. REV. 194. See also *Maitland* v. *Citizens' Nat. Bank*, 40 Md. 540; *Bailey* v. *Inland Empire Co.*, 75 Ore. 309, 146 Pac. 991. On this reasoning the pledgee's recovery is limited to the amount of the pledgor's debt, as determined by the agreement between him and the pledgor. This is in every case a question of fact. Perhaps it is possible, by implication, to incorporate into this agreement the provision as to attorneys' fees, where, as in the principal case, the note is pledged as security for a present advance. But where it is pledged as security for an antecedent debt, the stipulation for the payment of ten per cent, if the note is placed with an attorney for collection, can have no effect upon the original agreement between pledgor and pledgee. See *Citizens' Bank* v. *Limpright*, 93 Wash. 361, 160 Pac. 1046. The particular point does not appear to have been adjudicated before.

CONFLICT OF LAWS — DOMICIL — EFFECT OF ABANDONMENT OF DOMICIL OF CHOICE. — Decedent, born in Wales of parents who were domiciled there, left, when thirty-three years of age, for America. He married, settled in Iowa, and remained there for thirty-two years, having become a naturalized citizen of the United States. He left Iowa with fixed present intent to return to and re-establish his home in Wales. He was drowned *in itinere*. The question was, which law governed the disposition of his personal property. *Held*, that the decedent was domiciled in Iowa at the time of his death, and that the law of that jurisdiction should govern. *In re Jones' Estate*, 182 N. W. 227 (Ia.).

For a discussion of the principles involved, see NOTES, *supra*, p. 189.

CONSTITUTIONAL LAW — DUE PROCESS — VALIDITY OF RETROSPECTIVE LEGISLATION. — Action was begun September 2, 1920, to recover for fraud alleged to have occurred August 20, 1912. The six-year period allowed by statute had expired on August 20, 1918, but the method of computation was

changed by a statute passed September 1, 1920, providing that the period should start running on a claim for fraud when the fraud was discovered. The complaint set forth the date of discovery of the fraud as May 1, 1919. The defendant moved for judgment on the pleadings. *Held*, that the motion be denied. *Hopkins* v. *Lincoln Trust Co.*, 187 N. Y. Supp. 883 (Sup. Ct.).

For a discussion of the principles involved, see NOTES, *supra*, p. 193.

CONSTITUTIONAL LAW — SEPARATION OF POWERS — IMMUNITY OF GOVERNOR FROM ARREST. — The Governor of Illinois was indicted for embezzlement alleged to have been committed during a previous term as State Treasurer. *Held*, that he is liable to arrest and trial during his term of office. *People* v. *Small*, Ill. Circ. Ct., 7th Jud. Circ., decided July 27, 1921 (not officially reported).

For a discussion of the principles involved, see NOTES, *supra*, p. 185.

CORPORATIONS — CORPORATIONS *DE FACTO* — LIABILITY OF CORPORATION FOR TORT OF ASSOCIATES BEFORE INCORPORATION. — The plaintiff was injured in a collision between two auto busses operated by associates who later incorporated as the defendant corporation. The busses had been purchased in the corporate name two days before the accident. At the same time, a certificate of incorporation had been drawn and signed. A statute provided that an incorporating body which had previously recorded its certificate with the county clerk should become a corporation upon the date of filing said certificate at the office of the Secretary of State. (1896 N. J. COMP. STAT., p. 1604, § 10.) The certificate was recorded the day after the accident and filed four days thereafter. *Held*, that the defendant corporation is liable. *Frawley* v. *Tenafly Transportation Co.*, 113 Atl. 242 (N. J.).

For a discussion of the principles involved, see NOTES, *supra*, p. 198.

CORPORATIONS — DIRECTORS AND OTHER OFFICERS — POWER OF DIRECTORS: VOLUNTARY PETITION IN BANKRUPTCY UNDER CHARTER FORBIDDING DIRECTORS TO ASSIGN. — The charter of a corporation provided that the directors should have authority to dispose of the whole property of the corporation with the consent of the stockholders. By resolution of the board of directors, without the consent of the stockholders, the corporation filed a voluntary petition in bankruptcy. *Held*, that the adjudication should not be vacated. *In re De Camp Glass Casket Co.*, 272 Fed. 558 (6th Circ.).

The present Bankruptcy Act, as amended, allows a corporation to become a voluntary bankrupt, but does not specify by whom the corporate decision shall be made. BANKRUPTCY ACT, § 4a, 1919 BARNES, FEDERAL CODE, § 9089. A similar situation existed before the amendment, as to the commission of an act of bankruptcy by admission of insolvency. BANKRUPTCY ACT, § 3a (5), 1919 BARNES, FEDERAL CODE, § 9088. In the absence of specific charter provision or state legislation, power to do either is generally held to be in the directors. *In re C. Moench & Sons Co.*, 130 Fed. 685 (2d Circ.); *In re S. & S. Mfg. & Sales Co.*, 246 Fed. 1005 (N. D. Ohio); *Dodge* v. *Kenwood Ice Co.*, 204 Fed. 577 (8th Circ.). See 25 HARV. L. REV. 562. This power is usually rested on the power of committing an act of bankruptcy by making an assignment for the benefit of creditors. *Dodge* v. *Kenwood Ice Co.*, *supra; Home Powder Co.* v. *Geis*, 204 Fed. 568 (8th Circ.); *In re Foster Paint & Varnish Co.*, 210 Fed. 652 (E. D. Pa.). Occasionally the result is reached without this step, by deduction from the general authority of the directors to manage the corporation. *In re S. & S. Mfg. & Sales Co.*, *supra; In re United Grocery Co.*, 239 Fed. 1016 (S. D. Fla.). It has been held, however, that an admission of insolvency could not be made by directors not having the power to assign for the benefit of creditors. *In re Bates Machine Co.*, 91 Fed. 625 (D. Mass.).